

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
	§	CASE NUMBER 6:20-CR-00097-JCB
v.	§	
	§	
	§	
SHAWN CARL GAITAN (1),	§	

**FINDINGS OF FACT AND RECOMMENDATION ON GUILTY PLEA
BEFORE THE UNITED STATES MAGISTRATE JUDGE
PURSUANT TO RULE 11(c)(1)(C)**

Pursuant to 28 U.S.C. § 636(b), this matter has been referred by the District Court for administration of a plea of guilty under Rule 11 of the Federal Rules of Criminal Procedure.

On SEPTEMBER 20, 2021, this cause came before the undersigned United States Magistrate Judge for a plea of guilty to an information charging the Defendant in Count One with a violation of Title 21 U.S.C. § 846 - Conspiracy to Possess with Intent to Distribute and Distribution of a Controlled Substance (Methamphetamine. After conducting said proceeding in the form and manner prescribed by Federal Rules of Criminal Procure Rules 11, the undersigned finds that:

- a. the Defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea in this cause by a United States Magistrate Judge, subject to a final acceptance and imposition of sentence by the District Judge;
- b. the Defendant and the government have entered into a plea agreement which has been filed and disclosed in open court pursuant to Federal Rules FED. R. CRIM. P. 11(c)(2);
- c. the Defendant is fully competent and capable of entering an informed plea, that the defendant is aware of the nature of the charges, the maximum penalties, and the consequences of the plea, and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense; and

d. the Defendant understands each of the constitutional and statutory rights enumerated in Rule 11(b) and wishes to waive these rights, including the right to a trial by jury.

IT IS THEREFORE RECOMMENDED that the District Court accept the Plea Agreement and the Guilty Plea of the defendant and that **SHAWN CARL GAITAN (1)** should be finally adjudged guilty of that offense, reserving to the District Judge the option of rejecting the Plea Agreement pursuant to Rule 11(c)(5) if, after review of the presentence report, the agreed sentence is determined not to be the appropriate disposition of the case.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within 14 days after being served with a copy shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. FED. R. CIV. P. 72(b)(2); *see Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

So ORDERED and SIGNED this 21st day of September, 2021.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE